IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Bail Appl..No. 6468 of 2007(M)

LP.6/1990 of J.M.F.C.-I, PERINTHALMANNA
CRIME NO.69/1987 OF NATTUKAL POLICE STATION

.....

: PETITIONER/ACCUSED

MUHAMMEDALI, S/O. MUHAMMAD,
PALLATH HOUSE, VATTAMANNAPURAM AMSOM AND DESOM,
EDATHANATTUKARA, NATTUKAL P.S. LIMITS.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING S.I. OF POLICE,
NATTUKAL POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6468 of 2007

Dated this the 24th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered in 1987. Cognizance was taken in 1989. The co-accused have all been acquitted. The case against the petitioner was split up and transferred to the list of Long Pending Cases in 1990. The case against the petitioner was brought to termination applying the dictum in **Raj Dev Sharma**. Later that order was set aside and the case was restored to file. The petitioner has not appeared before the learned Magistrate so far. Hence coercive processes have been issued against the petitioner. The petitioner finds such processes chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He was under the bona fide impression that he has been discharged and the proceedings have been closed. He had no information about the restoration of the case and the subsequent proceedings. The petitioner is willing to surrender before the learned Magistrate and apply for bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and

expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application for anticipatory bail is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-